

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 18-1871V

UNPUBLISHED

DIANNA KRUEGER,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: December 12, 2019

Special Processing Unit (SPU);  
Ruling on Entitlement; Concession;  
Table Injury; Influenza (Flu) Vaccine;  
Shoulder Injury Related to Vaccine  
Administration (SIRVA)

*John Robert Howie, Howie Law, PC, Dallas, TX, for petitioner.*

*Kyle Edward Pozza, U.S. Department of Justice, Washington, DC, for respondent.*

### **RULING ON ENTITLEMENT**<sup>1</sup>

On December 6, 2018, Dianna Krueger filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,<sup>2</sup> (the “Vaccine Act”). Petitioner alleges that she sustained a SIRVA after receiving an influenza vaccination on November 22, 2017. Petition at 1. Petitioner further alleges that she received the vaccination in the United States, that she suffered the residual effects of her SIRVA for more than six months, and that neither she nor any other party has filed a civil action or received compensation for her SIRVA. *Id.* at 1, 9. The case was assigned to the Special Processing Unit of the Office of Special Masters.

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<sup>1</sup> Because this unpublished ruling contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). **This means the ruling will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

<sup>2</sup> National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

On December 11, 2019, Respondent filed his Rule 4(c) report in which he concedes that Petitioner is entitled to compensation in this case. Respondent's Rule 4(c) Report (ECF No. 23) at 1. Specifically, Respondent found that based on the petition and the medical records, Petitioner "has satisfied the criteria set forth in the Vaccine Injury Table (Table) and the Qualifications and Aids to Interpretation (QAI); petitioner had no history of pain, inflammation or dysfunction in her right shoulder; her pain and reduced range of motion occurred within 48 hours of receipt of an intramuscular vaccination; her symptoms were limited to the shoulder in which the vaccine was administered; and no other condition or abnormality was identified to explain her symptoms." *Id.* at 4 (citing 42 C.F.R. § 100.3(a), (c)(10)). Respondent further agreed that the scope of damages to be awarded is limited to Petitioner's SIRVA and its related sequela only. *Id.*

**In view of Respondent's position and the evidence of record, I find that Petitioner is entitled to compensation.**

**IT IS SO ORDERED.**

**s/Brian H. Corcoran**

Brian H. Corcoran  
Chief Special Master